

GENERAL INFORMATION

Applicant:	Peace Evangelical Lutheran Church
Location:	8600 East Bush Lake Road
Request:	Variance to reduce the side yard setback for Building Addition from 60 feet to 35 feet; Conditional Use Permit for a place of assembly expansion and Final Site and Building Plans for an approximately 2,950 sq. ft. Building Addition and Parking Lot Improvements.
Existing Land Use and Zoning:	Place of Assembly; zoned Single-Family Residential (R-1)
Surrounding Land Use and Zoning:	North, South and East – Park; zoned SC West – Single Family Residential and pond; zoned R-1 and Conservation
Comprehensive Plan Designation:	Quasi-Public, Low Density Residential and Conservation

HISTORY

City Council Action:	06/02/80 – Approved a Conditional Use Permit for a place of assembly (Case #08703D-80) and variances to reduce the principal structure setbacks. (Case #8703ABCE-80)
----------------------	--

CHRONOLOGY

Planning Commission Action:	09/29/16 – Recommended approval of a variance to reduce the side yard adjoining a street setback from 60 feet to 35 feet (Vote: 4-0 and a CUP and Final Site and Building Plans for building and parking lot expansion (Vote 3-1) with conditions.
City Council Agenda:	10/24/16 – Public hearing scheduled

PROPOSAL

Peace Lutheran Church is requesting a variance to reduce the setback along East Bush Lake Road from 60 feet to 35 feet in order to construct an approximately 2,950 square foot addition to an

existing place of assembly located at 8600 East Bush Lake Road. The request includes Final Site and Building Plans and an amendment to an existing Conditional Use Permit for a place of assembly expansion in the R-1 Single Family Residential zoning district. The proposed building addition includes new administrative offices, a commercial kitchen, bathroom facilities, a trash and recycling room and additional storage space. Moving these uses to new space within the proposed addition would allow for the conversion of existing space to four new classrooms on the main floor. The place of assembly is also proposing improvements to their existing parking lot, as well as constructing a new parking lot on the site of an existing two-family dwelling located at 7103 and 7101 West 86th Street. The two-family dwelling would be removed to make way for the new parking area west of the existing parking lot.

As part of the Conditional Use Permit amendment, Peace Lutheran Church requests the City consider a non-concurrent use condition for parking. The purpose of the non-concurrent use condition is ensure the site will be in conformance with the City's parking regulations (Sec. 21.301.06 of the City Code). The City amended its parking quantity requirements since the place of assembly was expanded/constructed in 1980. The existing parking provided is legally non-conforming. Place of assembly expansion as proposed brings the overall level of code-compliance into review via the Conditional Use Permit amendment process. The non-concurrent use condition, along with the construction of additional parking, would be to bring the site into conformance with parking regulations. More specifically, the agreement would restrict Peace Lutheran Church's ability to utilize all assembly and programming spaces within the facility at the same time, thereby preventing potential scenarios of inadequate parking on-site. Should the non-concurrent use condition be approved, the restrictions would be memorialized as a part of the Conditional Use Permit amendment.

The Planning Commission held a public hearing for the proposed Variance, Conditional Use Permit amendment, and Final Site and Building Plans at their September 29th meeting. No one spoke at the public hearing. The Planning Commission had limited discussion on vehicle movements between the proposed parking areas and adopted a motion to recommend approval of the proposal. Additional detail of the Planning Commission discussion can be found in the attached draft minutes from the 9/29/16 meeting.

ANALYSIS

The review of the proposed building addition, parking lot improvements and non-concurrent use condition are based on the performance standards applicable to places of assembly and non-residential structures located in the R-1 Single Family Residential zoning district.

Land Use

To accommodate the proposed building addition and parking lot improvements, Peace Lutheran Church is requesting to amend their Conditional Use Permit (CUP) for a place of assembly in the

R-1 zoning district. A place of assembly is a conditional use in the R-1 Single Family Zoning District. Peace Lutheran Church received approval for their existing CUP in 1980 prior to the construction/expansion of the place of assembly. Expansion of Peace Lutheran Church requires the existing CUP to be amended to document the building addition, parking improvements and the proposed non-concurrent use condition.

Code Compliance

Table 1 includes applicable performance standards related to the proposed building addition and parking lot improvements in the R-1 zoning district. In addition, the building addition and site improvements are evaluated against performance standards for places of assembly.

Table 1: City Code Analysis for Places of Assembly in the R-1 Zoning District

Standard and Code Section	Proposed	Meets Standard?
Building Setbacks (Sections 21.301.02(d)(2) and 19.63(a)(4): Front-yard setback – 60 feet Side-yard setback – 25 feet Rear-yard setback – 30 feet	Setbacks (smallest proposed): Front-yard (north and east) – 35 feet Side-yard (west) – no change Rear-yard (north) – no change	Variance requested for reduced setback to East Bush Lake Road (see comments)
Maximum Structure Lot Coverage – 15 % (Section 19.63(c)(1))	8.3%	Yes
Maximum Parking Lot Coverage – 70% (Section 19.63(c)(2))	35.5% 37.4% w/proof of parking	Yes
Parking Location – No parking shall be permitted on the site in front of the place of assembly except for existing sites with previously approved CUP (Section 19.63(a)(9)).	Existing parking area in front of the structure approved 1980. Northwest parking area is not in front of the structure. A handicap stall in southeast corner is in front of the new building addition.	Revisions required (see comments)
Parking – See Table 2. Total proposed facility would require 174 parking spaces if all portions of the building were used at once.	118 parking stalls 16 proof of parking stalls 134 total parking stalls	No – Applicant requests a non-concurrent use condition (see comments)

Standard and Code Section	Proposed	Meets Standard?
Parking Stall Dimensions – 9 feet by 18 feet for 90 degree parking (Section 21.301.06(c)(2)(C)(i))	9 feet by 18 feet	Yes
Drive Aisles - Adjacent to 90 degree parking must be 24 feet wide. All other drive aisles must be a minimum of 20 feet. Fire Code (Section 21.301.06(c)(2)(C)).	New parking area – 24 feet Modified existing parking area – 24 feet Eastern existing parking area – 15.2 feet (legally non-conforming)	Yes
Sidewalk Width - Private sidewalks must have a minimum width of five unobstructed feet (Section 21.301.04(d)(1)(B)).	All new sidewalks are at least 5 feet in width.	Yes
Landscaping – Trees / Shrubs – One tree per 2,500 sq. ft. and one shrub per 1,000 sq. ft. of disturbed area (Sec 19.52(c)(2)). 57 trees and 143shrubs required.	92 trees and 206 shrubs	Yes
Landscape Yard – 20 feet adjacent to streets and 5 feet for interior lot lines (Section 19.52(c)(4)).	North – 23 feet West – 5 feet South (new parking) – 5 feet East – 16.6 feet (legally non-conforming)	Yes
Parking Island Trees – A minimum of one deciduous tree must be provided per parking lot island (Section 21.301.06(c)(2)(H)(iii)).	Trees are provided in all new and modified islands except for two islands near entry of new parking lot.	Revisions required (see comments)
Screening – Parking lots with 6 stalls or more within 30 feet of sites residentially used and zoned must have perimeter screening (Section 19.52(d)(1)(A)).	Perimeter screening is provided in the form of one row of evergreen plantings – one row of evergreens is not Code-compliant – two rows required.	Revisions required (see comments)
Lighting for Parking Surface - 1.0 foot-candle required (Section 21.301.07(c)(13))	Lighting Plan yet to be submitted	Photometric Plan required (see comments)

Building Design

The proposed building addition will extend off the northeast corner of the existing place of assembly. The primary exterior building material would be fiber cement board. The proposed exterior materials are intended to match the existing place of assembly design and are Code-compliant. However, the City Code prohibits the coating of exterior materials for non-residential buildings in the R-1 zoning district. The applicant has been informed of the coating prohibition by City staff.

Landscaping, Screening and Lighting

The subject property already has a significant amount of mature landscape material on site. With the addition of new landscape material, the place of assembly is code-compliant with respect to the amount of trees and shrubs proposed. While there is a significant amount of existing material, new landscaping is required to achieve code-compliant parking lot plantings and screening. All new and modified parking islands require a minimum of one deciduous tree. Two of the new parking islands located near the entrance of the new parking lot in the northwest portion of the site are not proposed to have trees. The landscape plan will need to be modified to achieve Code-compliant parking island plantings. It should be noted the boundaries between the place of assembly and two-family dwelling parcels does not currently have a 5-foot landscape yard. Under the provisions of the Zoning Code, the totality of the parcels can be reviewed as one broader zoning lot due to common ownership, thereby nullifying code requirements (setbacks, landscape yards, etc.), if the parcels are combined for tax purposes. Therefore, the 5-foot landscape yard between the place of assembly property and two-family dwelling site is not required if the tax combination is completed. Staff is recommending a condition that the property owner complete a parcel combination for tax purposes of the three subject properties in order for the subject site to be considered a legal zoning lot.

Regarding required screening on site, the new parking lot in the northwest portion of the subject property requires parking lot screening due to proximity to residential sites located to the south and west of the new parking lot. The applicant is proposing to screen the parking lot utilizing one row of evergreen plantings. However, City Code requires that two rows of evergreen plantings be provided in order to be considered an effective screen. Other permitted screening techniques include a berm, an opaque wall/fence, or a combination of the three permitted techniques. The proposed screening proposed along the southern and western property lines of the new parking area will need to be revised in order to comply with City Code. Staff is recommending a condition of approval that Code-compliant screening be provided for the new parking lot.

The applicant has not submitted a photometric lighting plan for the new and existing parking areas. City Code requires 1.0 foot-candle on all parking surfaces. The light level of the perimeter 25 feet of the parking areas can be reduced by 50%, requiring a minimum of 0.5 foot-candles. Staff is recommending a condition that Code-compliant lighting be provided for all parking surfaces of the site. The photometric lighting plan must be approved prior to the issuance of any building permits.

Access and Circulation:

The existing driveway to the place of assembly and existing parking lot will remain. However, a landscaped island in the middle of the driveway is proposed to be removed. Other improvements include widening some legally non-conforming drive aisles, making them Code-compliant. However, the drive aisle, 15.2 feet in width at its narrowest point, on the eastern side of the existing parking lot will remain legally non-conforming, as that portion of the lot will remain undisturbed. Improved pedestrian circulation within the existing parking lot is proposed. The applicant is planning a central pedestrian corridor with sidewalks within planted medians and painted crosswalks to alert drivers to the presence of pedestrians. The central pedestrian corridor will also be connected to the public sidewalk along West 86th Street, better connecting the place of assembly to the minor collector roadway. These improvements should provide safer and more efficient pedestrian travel through the site.

The new proposed parking lot on the two-family dwelling site northwest of the place of assembly would also be accessed via a driveway from West 86th Street. The driveway for the new parking lot is approximately 175 feet west of the driveway of the place of assembly site. Once vehicles park in the overflow lot, pedestrian connection to the place of assembly site is provided via a sidewalk and staircase in the southeast corner of the new parking lot. As described above, the properties are separate parcels of record, but for purposes of setbacks, they are considered one zoning lot if a tax record combination of the subject parcels is completed. However, there is an existing public drainage and utility easement on the lot line that needs to be handled. The applicant may either apply to vacate the easement or apply for an encroachment agreement with the City.

Parking

The subject property currently has 92 parking stalls, many of which are not Code-compliant from a dimensional and drive aisle standpoint. As the place of assembly was legally constructed and expanded prior to current parking regulations being adopted, the property is legally non-conforming with regards to the quantity of parking stalls. According to the applicant, the existing parking facilities can accommodate 96% of the services and events that are hosted at Peace Lutheran Church. The other 4% of services/activities, including Christmas Eve, Easter and well attended funerals, occasionally result in overflow parking occurring on West 86th Street or other surrounding residential streets. As part of the building addition project, the applicant

intends to add parking to reduce the potential for overflow on-street parking occurring during the limited number of large events. To achieve this goal, Peace Lutheran Church is proposing to remove the existing two-family dwelling on the site to the northwest of the place of assembly to construct a new parking lot (45 stalls and 9 proof of parking stalls).

Through the modification of the existing parking lot and the construction of the new northwest parking lot, Peace Lutheran Church would have 118 code-compliant parking stalls, representing an increase of 26 parking stalls. In addition, the place of assembly is proposing a design that would allow 16 additional stalls to be constructed as part of a proof of parking agreement, bringing the potential total of parking to 134 legal stalls on-site. Given that the proposed addition is 2,950 square feet in size and would require 5 additional parking stalls (primarily office and kitchen space) to be added by Code, the proposed increase in parking above and beyond what Code would require for the addition would be 21 parking spaces (26 spaces added – 5 spaces required = 21 excess spaces). However, the fact that places of assembly are conditional uses in the R-1 zoning district requires that the totality of the site be reviewed for Code-compliance. Table 2 provides a parking analysis of the total facility with the proposed building addition included.

Table 2: Parking Analysis for Peace Lutheran Church w/Proposed Addition

Use Description	Standard	Proposed (square feet)	Required Parking (stalls)
Offices	1 stall per 285 gross square feet	1,021	3.6
Classrooms	1 stall per 800 gross square feet	3,485	4.4
Nursery	1 stall per 1/3 occupancy of 1 person per 120 square feet	503	1.4
Kitchen	1 stall per 1/3 occupancy of 1 person per 100 square feet	425	1.4
Sanctuary	1 stall per 1/3 occupancy of 1 person per 15 square feet and/or sanctuary seating	217 square feet 264 seats	92.8
Narthex (South and Mid)	1 stall per 1/3 occupancy of 1 person per 15 square feet	1,344	29.9

Use Description	Standard	Proposed (square feet)	Required Parking (stalls)
Parish Hall	1 stall per 1/3 occupancy of 1 person per 15 square feet	1,685	37.4
Total Parking Requirement			170 stalls
Parking Proposed			118 stalls
Proof of Parking Proposed			16 stalls
Total Parking Proposed with Proof			134 stalls

With the proposed building addition, a total of 170 parking stalls would be required to serve the totality of the place of assembly facility according to current parking regulations. Given its historic use characteristics, the place of assembly requests that the City consider a formal non-concurrent use condition. The condition would formally limit which portions of the place of assembly facility could be used at which time, regulating and minimizing overall parking demand. Additional details and analysis of the proposed non-concurrent use condition are presented in the section that follows. Non-concurrent use conditions have been applied at multiple place of assembly and school sites in Bloomington. Such conditions avoid the construction of parking that rarely, if ever, will be used.

Proof of parking is a flexibility measure utilized for properties that have a clear or verified parking demand below the Code requirement. This requires an agreement be executed by both the property owner and the City and recorded against the property. Should the additional parking stalls be needed to serve additional parking demand, the City can require the property owner to install the proof of parking stalls to provide additional parking facilities.

In this case, the applicant requests 16 proof of parking stalls. Given that the nature of parking demand at places of assembly is typically defined by moderate use the vast majority of the time and peak parking demand only a few occurrences a year, staff supports proof of parking approach in this case. If the parking facilities provided prove not to be sufficient to serve the place of assembly, the City can require the place of assembly to install 16 additional parking stalls to meet the increase demand. Staff is recommending a condition of approval that the applicant enter into a proof of parking agreement to memorialize the proposed proof stalls.

Regarding the current parking lot design, there is one space that currently does not comply with City Code. The performance standards for places of assembly (Sec. 19.63. (a)(9)) do not allow parking to be located between the street and the building unless previously approved by a Conditional Use Permit (CUP). All of the parking spaces in the existing parking lot meet the

exemption, as they were previously approved through the CUP in 1980. However, one handicapped parking stall proposed in the southeast corner of the existing parking lot now would be located in between the place of assembly and East Bush Lake Road as a result of the building addition extending further north. Consequently this stall as proposed does not meet the parking performance standard for places of assembly. This stall will need to be removed in order for the parking design to be fully Code-compliant. Staff is recommending a condition that this non-conformity be corrected by removing the parking stall from this location.

To provide a general summary of the overall parking analysis, staff would like to highlight the following:

- There are 92 existing parking spaces at Peace Lutheran Church, several of which are legally non-conforming.
- The place of assembly facility is currently legally non-conforming with regards to parking quantity.
- The applicant is proposing 118 parking spaces (26 space increase over existing condition) and 16 proof of parking spaces.
- The proposed place of assembly addition would require 5 additional parking spaces per Code.
- With the proof of parking stalls, the total number of spaces would be 134. For the place of assembly to conform to the required level of total parking, the site would need 170 parking spaces. Therefore the site would be 36 spaces short of the Code-compliant amount of parking with the addition of the proof stalls.
- The place of assembly is proposing a non-concurrent use condition to address the parking shortfall as determined by current parking regulations.

Given the proposed place of assembly expansion is 2,950 square feet (5 additional spaces required), and a net 26 parking stalls are added to the property, staff is supportive of the building expansion and CUP amendment provided a non-concurrent use condition that further regulates parking demand is executed.

Non-Concurrent Use Condition

Non-concurrent use conditions have been frequently used at Bloomington place of assembly and school sites to avoid the construction of unnecessary parking. As it is atypical or uncommon for all assembly spaces within places of assembly to be utilized or occupied all at the same time, non-concurrent use conditions formally restrict use with the goal of properly managing parking demand. The benefit of such a condition is to not overbuild parking facilities that will only be used for rare or infrequent events. In this case, Peace Lutheran Church is proposing to abide by a non-concurrent use condition with the City in order to manage parking demand and demonstrate compliance with the City's parking requirements to the greatest extent possible. Table 3 presents the non-concurrent use scenarios the Peace Lutheran Church is proposing.

Table 3: Non-Concurrent Use Scenarios for Peace Lutheran Church

Use Scenario	Facilities Used (Required Parking Spaces)	Total Parking Requirement
Scenario #1 (Worship Use - Regular)	Classrooms (4.4), nursery (1.4), offices (3.6), kitchen (1.4) and sanctuary (92.8)	104
Scenario #2 (Worship Use – Christmas and Easter)	Nursery (1.4), sanctuary (92.8) and narthex (29.9)	124
Scenario #3 (Visitation or Wedding – Non-Ceremony Space)	Classrooms (includes Lounge) –three used for assembly (18.2), nursery (1.4), offices (3.6), kitchen (1.4), narthex (29.9) and parish hall (37.4)	92

As demonstrated in Table 3, the proposed use scenarios generate parking requirements below or proximate to the quantity of parking stalls installed, which is 118 parking spaces. When factoring in the possibility of installing proof of parking stalls, the total amount of parking at the place of assembly can be increased to 134 parking spaces.

Only the parking requirement of use scenario #2 (Christmas, Easter or large funeral), which only occurs a few times per year, exceeds the amount of parking proposed to be installed as part of the subject project. Through the use of a proof of parking agreement, the City will have the ability to monitor the parking situation at Peace Lutheran Church to determine if any additional parking spaces are necessary. Once again, if peak parking demand only occurs 4-6 times per year, which is common for places of assembly, the installation of additional parking to meet infrequent peak demand is not the recommended solution. If demand rises to a level that creates a public safety problem on adjacent roadways, the City can then execute against the proof of parking agreement to require additional stalls (up to 16 as proposed) to be installed. Given the nature of use for places of assembly, a non-concurrent use condition can be an effective tool to manage parking demand. Staff is supportive of such a condition in this case and is recommending that the City adopt non-concurrent use conditions. More specifically, staff finds that the non-concurrent use scenarios described by the applicant can be achieved if there is no concurrent use of the Sanctuary and Parish Hall. Staff is recommending a condition that these two facilities are not used concurrently.

Variance Request

As part of the request for the building addition, Peace Lutheran Church is requesting a variance for a reduced building setback from 60 feet to 35 feet along East Bush Lake Road. When the place of assembly facility was constructed/expanded in 1980, a similar variance was approved, allowing for a setback reduced to 30 feet. In examining the survey of the property, the place of

assembly was constructed 34.5 feet from the East Bush Lake Road right-of-way. It is the applicant's intention that the proposed building addition to the northeast corner of the structure would follow a similar setback and building line that the previous place of assembly construction/expansion followed.

In requesting a reduced setback along East Bush Lake Road, the applicant notes three factors that inform the variance request:

- 1) Approval of the variance would allow for the building addition to follow the same setback and building line that was previously approved;
- 2) The irregular shape of the subject property limits the place of assembly's ability to meet the required setbacks from East Bush Lake Road, representing a unique circumstance not created by the landowner; and
- 3) East Bush Lake Road is a collector road, necessitating a larger right-of-way and thereby further constraining the site.

Staff has reviewed the reasons presented by the applicant in requesting the variance and found them to be accurate. Based on the proposed building addition following the existing building line and setback that was established by a previous variance and the irregular shape of the subject property, the variance request has merit and staff recommends approval. Additional analysis of the variance request in the form of proposed findings is provided in the Findings section of the staff report.

Stormwater Management:

Stormwater must be managed to meet the City's and Watershed District's requirements for stormwater rate control (quantity), stormwater quality, and volume. Peace Lutheran Church is proposing to install an underground infiltration and storage basin in the western portion of the existing parking lot. The applicant has not yet provided a stormwater management plan with calculations.

A maintenance plan has not yet been provided and will be required to be signed and filed at Hennepin County. Prior to the issuance of any building or grading permits, the stormwater management plan must be approved by the City Engineer. This site is located within the Nine Mile Creek Watershed District, so an additional permit will be required.

Utilities:

There is an existing 16-inch watermain located under W. 86th Street, and the place of assembly already has a 6-inch water service. The applicant proposes installing a new gate valve in the 16-inch watermain and then tapping another 6-inch water service just west of the existing service. This will provide a watermain loop for the site. An additional hydrant is proposed to be added to

a parking island near the front of the building. This hydrant needs to be within 50-feet of the Fire Department Connection. No changes are proposed to the sanitary sewer service.

Transportation Demand Management (TDM):

This redevelopment will require a Tier 2 TDM plan, which allows the property owner to choose from a menu of TDM options. The owner has not yet submitted a Tier 2 TDM checklist. In addition, the applicant should plan on installing bike racks, as approved by the City Engineer.

Fire Preventions and Public Safety

Maintaining access, water supply, and addressing for the property are critical factors as the proposed development will be comprised of a place of assembly, classrooms and nursery. The current parking lot for the place of assembly doesn't meet the required code complying access and circulation for emergency vehicle access. Any restructuring of the undisturbed portion of the existing parking area will require all emergency vehicle access and turning radii to be compliant with adopted code requirements.

The hydrant must be maintained and/or relocated for the existing building. A single, combined water service into the building is required for the domestic and sprinkler system water supply. The fire alarm system shall meet the minimum requirements for an assembly occupancy.

The buildings must be addressed plainly and visibly from the street or road using numbers that contrast with the background. The numbers must be a minimum of four inches and be Arabic numbers or alphabetic letters.

Any changes made to the current plans, including building location, access roads, water supply and addressing shall be reviewed by the Fire Marshal to ensure continued compliance with the fire code. The proposed changes to the existing building will require the place of assembly to be fully sprinkled.

Status of Enforcement Orders

There are no open enforcement orders for this property.

FINDINGS

Variance Findings – Section 2.98.01 (b)(2)(A-C)

A) That the variance is in harmony with the general purposes and intent of the ordinance;

- A place of assembly is a conditional use in the R-1 Single Family Residential Zoning District. The requested variance would allow for a 2,950 square foot expansion of Peace Lutheran Church to add new bathroom, kitchen, storage and office facilities. These uses are consistent with the typical support functions of a place of assembly. In addition, the proposed location of the place of assembly addition still allows for a significant setback to East Bush Lake Road due to the increased size of the right-of-way and boulevard for the collector roadway. The requested encroachment of the place of assembly addition into the required setback is also consistent with a previously approved setback variance for the place of assembly. The variance is in harmony with the general purposes and intent of the zoning ordinance.

B) That the variance is consistent with the comprehensive plan;

- The subject property is guided Quasi-Public, Low Density Residential and Conservation with the addition taking place in the Quasi-Public designation. Places of assembly are consistent with the land use designation Quasi-Public. The expansion of a place of assembly at 8600 East Bush Lake Road is consistent with the Comprehensive Plan.

C) When the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

- The applicant's practical difficulty is created by the irregular shape of the subject property, thereby constraining Peace Lutheran Church's opportunity for facility expansion. The proposed encroachment into the front yard setback is less than the previous encroachment of the principal building as approved by a variance in 1980 at the time of place of assembly construction.

Practical difficulties as used in connection with the granting of the variance, means that:

(i) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

- Peace Lutheran Church proposed a 2,950 square-foot expansion to add a kitchen and office space to an existing place of assembly that was constructed in 1980. Due to the irregular lot shape, the place of assembly previously received a setback variance to reduce the setback to East Bush Lake Road from 60 feet to 30 feet when it was originally expanded. The proposed

expansion of the place of assembly necessitates a similar setback variance, reducing the setback from 60 feet to 35 feet. The proposed expansion of the place of assembly is a reasonable use not permitted by an official control.

(ii) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

- The subject property is irregularly pie-shaped, as the eastern property line runs southwest-northeast. As a result, the central and southern portion of the property becomes more and more constrained from north to south, leaving limited area for a building footprint. Given the constrained building area created by the irregular lot shape, it is difficult to meet the required 60-foot setback to all public street frontages for places of assembly. In addition to the challenge caused by the lot shape, it should also be noted that the boulevard for East Bush Lake Road is approximately 30 feet in size. While East Bush Lake Road is high-volume, major collector road, a 30-foot boulevard still provides significant separation and setback for the proposed addition. As proposed, the place of assembly addition would be 65 feet from the edge of roadway for East Bush Lake Road. Both the irregular lot shape and significant boulevard of East Bush Lake Road are unique circumstances not created by the landowner.

(ii) The variance if granted will not alter the essential character of the locality.

- Peace Lutheran Church has been located at 8600 East Bush Lake Road since 1980. The proposed place of assembly addition is 2,950 square feet in size. Based on the existing area of the place of assembly, 11,957 square feet, the proposed expansion represents a 24.6% increase in floor area. In addition, the proposed addition will not allow for a significant increase of assembly or congregation space. The proposed addition to the place of assembly is not considered significant with respect to increased size or intensity of use. Finally, the place of assembly previously received a variance for a reduced setback of 30 feet to East Bush Lake Road. The proposed addition will be setback equivalent to the existing condition. The requested variance will not alter the essential character of the locality.

Section 21.501.04(e)(1-5) - Conditional Use Permits

Section 21.501.01(d)(1-4) – Final Site and Building Plans

(1) The proposed use/development is not in conflict with the Comprehensive Plan;

- The subject property is guided Quasi-Public, Low Density Residential and Conservation in the Comprehensive Plan. An addition to an existing place of assembly on a parcel with the Quasi-Public land use designation does not conflict with the Comprehensive Plan.
- (2) **The proposed use/development is not in conflict with any adopted District Plan for the area;**
- The property is not located within an area with an adopted District Plan.
- (3) **The proposed use/development is not in conflict with City Code provisions;**
- Subject to compliance with the conditions of approval and approval of a requested setback variance, the proposed use/development meets all City Code requirements.
- (4) **The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and**
- The proposed use is not of a nature, scale, or intensity to create an excessive burden on parks, schools, or other public facilities and utilities. The proposed place of assembly renovation does not add a significant amount of assembly or programming space. The primary purpose of the addition is to add improved kitchen and bathroom facilities, storage and trash rooms, and office space. All of these uses are typical support functions of a place of assembly and should not increase the intensity of the overall use of the property in a significant way. Finally, the construction of additional on-site parking should reduce the occurrence or need of on-street parking during the facilities largest events, thereby reducing the burden on public facilities such as West 86th Street and other adjacent streets.
- (5) **The proposed use/development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.**
- The proposed addition to the place of assembly is located on the opposite side of the property from the abutting residential uses. In addition, the proposed expansion should not increase the intensity of use of the existing facility. Finally, the provision of additional parking will reduce the infrequent occurrence of on-street parking being utilized for overflow purposes. The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

RECOMMENDATION

The Planning Commission and staff recommend approval of the variance request to reduce the front yard setback from 60 feet to 35 feet for an addition to a place of assembly. In addition, the Planning Commission and staff recommends approval of a Conditional Use Permit amendment for the expansion of a place of assembly, and Final Site and Building Plans for a place of assembly addition and parking lot improvements. Staff recommends the following motions:

In Case PL2016-147, having been able to make the required findings, I move to adopt a resolution approving a variance to reduce the front yard setback of a place of assembly addition at 8600 East Bush Lake Road from 60 feet to 35 feet, subject to the conditions and Code requirements attached to the staff report.

In Case PL2016-147, having been able to make the required findings, I move to approve Final Site and Building Plans and adopt a resolution approving a Conditional Use Permit amendment for a place of assembly addition and parking lot improvements at 8600 East Bush Lake Road, subject to the conditions and Code requirements attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL201600147

Project Description: Variance to reduce the required side yard setback from 60 feet to 35 feet for a building addition; Conditional Use Permit amendment for an addition to a place of assembly; and Final Site and Building Plans for a 2,950 square foot building addition and parking lot improvements.

Address: 8600 E BUSH LAKE RD

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to Permit A Proof of Parking Agreement for 16 spaces must be approved and filed with Hennepin County.
2. Prior to Permit Sewer Availability Charges (SAC) must be satisfied.
3. Prior to Permit Signed copies of a private common parking/access agreement and a private common utility easement/agreement must be provided to the City and filed with Hennepin County and proof of filing provided to the Engineering Division.
4. Prior to Permit Storm Water Management Plan must be provided that demonstrates compliance with the City's Comprehensive Surface Water Management Plan. A maintenance plan must be signed by the property owners and must be filed of record with Hennepin County.
5. Prior to Permit The Grading, Drainage, Utility, Erosion Control, Access, Circulation, Parking and Traffic plans must be approved by the City Engineer.
6. Prior to Permit A Nine Mile Creek Watershed District permit must be obtained and a copy submitted to the Engineering Division.
7. Prior to Permit A sidewalk must be provided to link the primary entrance of each building on site with the public sidewalk network.
8. Prior to Permit A National Pollutant Discharge Elimination System (NPDES) construction site permit and a Storm Water Pollution Prevention Plan (SWPPP) must be provided if greater than one acre is disturbed (State of MN and Federal regulation).
9. Prior to Permit An erosion control surety must be provided (16.05(b)).
10. Prior to Permit A Minnesota Department of Health (MDH) watermain review and approval must be obtained or notification from MDH that this permit is not required must be submitted to the City (State of MN).
11. Prior to Permit Civil plans must be revised to remove one parking stall located in the southeast portion of the existing parking lot to comply with Section 19.63(a)(9) of the City Code.
12. Prior to Permit Utility plan showing location of existing and proposed water main and fire hydrant locations must be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, Minnesota State Fire Code Sec. 508).

13. Prior to Permit Bicycle parking spaces must be provided and located throughout the site as approved by the City Engineer.
14. Prior to Permit Tier 2 Transportation Demand Management plan must be submitted (Sec. 21.301.09(b)(2)).
15. Prior to Permit Landscape plan must be approved by the Planning Manager and landscape surety must be filed (Sec 19.52).
16. Prior to Permit Parking lot and site security lighting plans must be provided and approved to satisfy the requirements of Section 21.301.07 of the City Code.
17. Prior to Permit A tax parcel combination of the subject properties must be completed to obtain legal zoning lot status.
18. Prior to C/O A Site Development Agreement incorporating all conditions of approval must be executed by the applicant and the City and must be properly recorded by the applicant with proof of recording provided to the Director of Community Development.
19. Prior to C/O The developer must submit electronic utility as-builts to the Public Works Department prior to the issuance of the Certificate of Occupancy.
20. Prior to C/O Building must be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN.Rules Chapter 1306; MN State Fire Code Sec. 903).
21. Prior to C/O Prior to occupancy, life safety requirements must be reviewed and approved by the Fire Marshal.
22. Ongoing The variance and building/site improvements are limited to those as shown on the approved plans in Case File #PL2016-147.
23. Ongoing Due to limited on-site parking, the Parish Hall (multi-purpose room) must not be used when the Sanctuary is in use.
24. Ongoing Five foot high, year-round perimeter screening must be provided along the western and southern property boundaries of the new parking lot as approved by the Planning Manager (Sec 19.52).
25. Ongoing Development must comply with the Minnesota State Accessibility Code.
26. Ongoing Alterations to utilities must be at the developer's expense.
27. Ongoing If the kitchen is used to serve any licensed activity, such as school, preschool or daycare, it must comply with current food code requirements.
28. Ongoing All construction stockpiling, staging, loading, unloading and parking must take place on-site and off adjacent public streets and public rights-of-way.
29. Ongoing All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).